

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JUAN CARLOS RUIZ,

Petitioner,

v.

Case No. 2:16-CV-255

KATHY OLSEN,

HON. GORDON J. QUIST

Respondent.

_____/

ORDER ADOPTING REPORT AND RECOMMENDATION
AND DIRECTING PETITIONER TO SHOW CAUSE REGARDING
STAY OF PROCEEDINGS

On October 26, 2017, Magistrate Judge Timothy Greeley issued a Report and Recommendation recommending that the Court deny Respondent's motion to dismiss Petitioner's habeas petition for failure to exhaust all claims, but that the Court issue an order directing Petitioner to show cause, as specified in *Rhines v. Weber*, 544 U.S. 269, 277 (2005), why he is entitled to a stay of these proceedings while he exhausts his unexhausted claims. The Report and Recommendation was duly served on the parties on October 26, 2017. No objections have been filed pursuant to 28 U.S.C. § 636(b). Therefore the Court will adopt the Report and Recommendation and issue the recommended show cause order.

Therefore,

IT IS HEREBY ORDERED that Magistrate Judge Greeley's Report and Recommendation issued October 26, 2017 (ECF No. 8) is **APPROVED AND ADOPTED** as the Opinion of this Court, and Respondent's Motion to Dismiss (ECF No. 7) is **DENIED**.

IT IS FURTHER ORDERED that within **twenty-eight (28) days** of the date of this Order, Petitioner shall show cause why he is entitled to a stay of these proceedings. Petitioner must show:

(1) good cause for his failure to exhaust before filing his habeas petition; (2) that his unexhausted claims are not plainly meritless; and (3) that he has not engaged in intentionally dilatory litigation tactics. If Petitioner fails to file a timely response or fails to make the required showing, the Court will review only Petitioner's unexhausted claims. Alternatively, Petitioner may file an amended petition setting forth only his unexhausted claims.

Dated: November 30, 2017

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE